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COMMITTEE MEETING  
STATE OF CALIFORNIA  
INTEGRATED WASTE MANAGEMENT BOARD  
PERMITTING AND ENFORCEMENT COMMITTEE

JOE SERNA, JR., CALEPA BUILDING  
1001 I STREET  
2ND FLOOR  
COASTAL HEARING ROOM  
SACRAMENTO, CALIFORNIA

MONDAY, JUNE 5, 2006

10:00 A.M.

TIFFANY C. KRAFT, CSR, RPR  
CERTIFIED SHORTHAND REPORTER  
LICENSE NUMBER 12277

PETERS SHORTHAND REPORTING CORPORATION (916) 362-2345

APPEARANCES

COMMITTEE MEMBERS

Ms. Rosalie Mulé, Chair

Ms. Cheryl Peace

Ms. Pat Wiggins

BOARD MEMBER ALSO PRESENT

Ms. Margo Reed Brown

STAFF

Mr. Mark Leary, Executive Director

Ms. Julie Nauman, Chief Deputy Director

Mr. Michael Bledsoe, Staff Counsel

Mr. Elliot Block, Staff Counsel

Ms. Donnell Duclo, Executive Assistant

Ms. Jenifer Kiger, Staff

Mr. Bob Holmes, Staff

Mr. Howard Levenson, Deputy Director

Mr. Steve Levine, Staff Counsel

Mr. Wes Minderman

Ms. Carla Repucci, Staff

Ms. Allison Spreadborough, Staff

Mr. Scott Walker, Branch Manager, Remediation, Closure, &  
Technical Services Branch

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APPEARANCES CONTINUED

ALSO PRESENT

Mr. Majed Araba, Department of Public Works, County of Los Angeles

Mr. Evan Edgar, California Refuse Removal Council

Ms. Patti Henshaw, Orange County LEA

Mr. Ron Jenson, Calaveras County Public Works

Mr. Don Poindexter, Operation Manager, Sonoma County Public Works Department

Mr. Bill Prinz, LEA, City of San Diego

Mr. Marty Strauss, City of Sacramento

Mr. Bob Swift, LEA, Sonoma County

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1 PROCEEDINGS

2 CHAIRPERSON MULÉ: Good morning, everyone.

3 Welcome to the June 5th meeting of the Permitting and

4 Enforcement Committee. There are agendas on the back

5 table. So if anyone would like to speak to an item,

6 please fill out a speakers form and bring it up to Donnell

7 and then you'll have an opportunity to address our

8 Committee.

9 And also I would like to ask everyone to please

10 turn off your or put in the silent mode your cell phones

11 and pagers.

12 And Donnell, would you please call the roll?

13 SECRETARY DUCLO: Members Peace?

14 COMMITTEE MEMBER PEACE: Here.

15 SECRETARY DUCLO: Wiggins?

16 Chair Mulé?

17 CHAIRPERSON MULÉ: Here.

18 And I understand that Board Member Wiggins will

19 be with us in about 15, 20 minutes. So we'll hold

20 whatever votes we need open for her.

21 Do you have any ex partes?

22 COMMITTEE MEMBER PEACE: No. I'm up to date.

23 CHAIRPERSON MULÉ: And I'm up to date as well.

24 And with that, Mr. Levenson, good morning.

25 DEPUTY DIRECTOR LEVENSON: Good morning, Madam

1 Chair and Member Peace. I'm Howard Levenson with the  
2 Permitting and Enforcement Division. I have a couple  
3 items that I'd like to provide you quick updates on.

4 First of all, I want to reiterate that this  
5 afternoon we'll be having a public hearing for the permit  
6 implementation regulations. The 60-day comment period for  
7 that begin in early April on April 7th and it ends  
8 tomorrow, June 6th. So this afternoon we'll have the  
9 staff run a public hearing to solicit any comments that  
10 stakeholders wish to provide. And of course, written  
11 comments are still acceptable until the end of tomorrow.  
12 After that, we will assess the comments and prepare an  
13 agenda item for your consideration probably coming back to  
14 the Committee in August. And I would anticipate that  
15 we'll probably need to go out for another 15-day comment  
16 period. But we'll see what the comments are like.

17 I'd like to provide you a quick update on  
18 proposed Rule 410. This is the rule that was proposed by  
19 the South Coast Air Quality Management District last year.  
20 As proposed, it was a pretty restrictive regulation that  
21 would control odors at transfer stations and at MRFs. And  
22 in most instances, it would have required enclosure and  
23 forced air ventilation and a variety of other design and  
24 operational restrictions.

25 We certainly recognize that odors at these kinds

1 of facilities can be a problem, have been a problem at  
2 some. And industry representatives also acknowledge that.  
3 But both industry representatives and CIWMB staff felt  
4 that the proposed regulatory approach was not flexible  
5 enough to address site-specific conditions.

6           The Waste Board in October proposed an  
7 alternative approach in which operators would voluntarily  
8 submit an odor management plan to the LEA, the appropriate  
9 LEA. The LEA would enforce the design and operational  
10 aspect of the plans and work with operators to revise the  
11 plans as needed. And the South Coast staff would still be  
12 responsible for responding to citizen odor complaints.

13           The South Coast staff held a working group  
14 meeting on May 18th with stakeholders down in Diamond Bar  
15 to discuss their latest thinking which did incorporate  
16 quite a few aspects of our alternative proposal. At the  
17 meeting, there were still some concerns expressed by both  
18 Waste Board staff and stakeholders about the scope of the  
19 regulations, what kinds of facilities it could cover, and  
20 also about the issue of double jeopardy from enforcement  
21 if the South Coast retains some authority to enforce the  
22 odor management plan. So those discussions are ongoing.

23           South Coast staff provided a status report to  
24 their Stationary Source Committee I guess that was a week  
25 ago Friday, and they will be holding additional working



1 group meetings in the near future before they take any  
2 specific revised language to their Governing Board. They  
3 are scheduled to have a meeting in July to schedule the  
4 actual formal hearing which they anticipate would be in  
5 September at this point. So that's the latest on 410.

6 Also like to tell you about our second Illegal  
7 Dumping Enforcement Task Force meeting, which was held  
8 here on May 24th. The purpose of that meeting was to  
9 discuss potential legislative, regulatory, and budgetary  
10 options that if implemented would provide additional tools  
11 for local governments to respond to illegal dumping, the  
12 problems they face.

13 The Task Force discussed which options might be  
14 of higher priority, and they started to discuss the  
15 advantages and disadvantages of each of these options.  
16 They also discussed a survey that's being jointly  
17 developed by the Waste Board with the League of California  
18 Cities and the County and CSAC, the County Association  
19 that's being sent out probably today or tomorrow to local  
20 governments to obtain better information on the current  
21 costs that are associated with the illegal dumping.

22 Over the next several months, our CIWMB  
23 coordinator Ken Stewart will be working with the Task  
24 Force to develop a draft report including recommendations.  
25 That will be sent out for review to a larger stakeholder

1 group and will be the subject of a third Task Force  
2 meeting later this year. And then we'll come back with  
3 the report and our own recommendations to the Board for  
4 your consideration later this year.

5           Lastly, want to let you know that staff  
6 participated in the multi-agency meeting coordinated by  
7 Region 9 regarding illegal dumping on the Torres Martinez  
8 tribal lands in Riverside County. This was in late April.  
9 Of the over 160 tribes in the region, this is the area  
10 that's considered to have the worst illegal dumping  
11 problems. There are about 16 sites that are being looked  
12 at. It's a very complex situation with tribal lands  
13 involved, but also some -- there's a patchwork quilt of  
14 ownership in the area, Bureau of Indian Affairs involved,  
15 EPA, and all kind of agencies, a lot of enforcement  
16 issues. Some of the sites have ongoing drug lab problems.  
17 So we are really being careful about which sites we get  
18 involved in.

19           But there is one large one, we call it Sludge  
20 Mountain, that we are working with BIA and the tribe and  
21 Region 9. We anticipate being able to bring a potential  
22 grant to you in the next few months. This would be a very  
23 large grant. It's one of the largest sites remaining in  
24 the state we're aware of. But as you know, these kinds of  
25 situations are exceedingly complex to get all the ducks in

1 order. So there may also be some farm and ranch  
2 possibilities, grant possibilities for that.

3 So that's the end of my report. I'd be happy to  
4 answer any questions if you have any.

5 CHAIRPERSON MULÉ: Thank you, Howard.

6 And again, I just appreciate all the work that  
7 you and Bob and staff have done on PR 410. Thank you very  
8 much. It seems like that whole process is moving along as  
9 well as can be expected. Thank you for all your work.

10 Board Member Peace, do you have any questions or  
11 comments?

12 COMMITTEE MEMBER PEACE: No.

13 CHAIRPERSON MULÉ: With that, we can move into  
14 our agenda items for today. The first item is Committee  
15 Item B.

16 DEPUTY DIRECTOR LEVENSON: This item is  
17 Consideration of Revised Full Solid Waste Facilities  
18 Permit for the Healdsburg Transfer Station in Sonoma  
19 County. That will be presented by Allison Spreadborough.

20 MS. SPREADBOROUGH: Good morning, Madam Chair and  
21 Committee Member Peace.

22 This item considers a revised transfer processing  
23 permit for the Healdsburg Transfer Station in Sonoma  
24 County. The facility is owned and operated by Sonoma  
25 County and is located in the unincorporated area of Sonoma

1 County.

2           The operator is applying for a revised permit to  
3 allow for the following proposed changes: An increase in  
4 the permitted tonnage from 450 tons per day to 720 tons  
5 per day; increase in the permitted acreage from 1.74 acres  
6 to 7.8 acres; an increase in permitted number of vehicles  
7 from 423 per day to 540 per day. Conditions the permit to  
8 restrict the evening tipping floor municipal solid waste  
9 to 300 cubic yards, or 75 tons per day. Conditions the  
10 permit to restrict the evening tipping floor wood waste  
11 and/or yard waste to less than 150 cubic yards or remove  
12 as necessary to keep temperatures from exceeding 122  
13 degrees Fahrenheit and to preclude the attraction,  
14 breeding, and/or harboring of vectors. Conditions the  
15 permit to address water storage tank reserves. And  
16 conditions the permit to address waste removal and  
17 wastewater removal time frames. Conditions the permit to  
18 incorporate future traffic impact CEQA mitigations.  
19 Conditions the permit to install a six-foot high solid  
20 sound barrier at the property line nearest the tripping  
21 floor. And finally, incorporates the revise transfer  
22 processing report dated February 2006.

23           The pre-permit inspection conducted by staff on  
24 May 11th found no violations of State Minimum Standards.  
25 Board staff have reviewed the proposed permit and

1 supporting documentation and have determined that all the  
2 requirements for the proposed permit have been fulfilled  
3 and recommend Board approval of Option 1, concurrence in  
4 Permit Number 49-AA-0245 and adoption of Resolution  
5 2006-94.

6 The operator, Don Poindexter, and the LEA, Bob  
7 Swift, are both present today to answer any questions.  
8 This concludes staff's presentation.

9 CHAIRPERSON MULÉ: Thank you, Allison.

10 Do you have any questions, Board Member Peace?

11 COMMITTEE MEMBER PEACE: No questions. But I  
12 just want to say thank you, operator, and thank you, LEA.  
13 We have a complete application that was submitted in a  
14 time frame that allowed the Board to have a full 60 days  
15 to review it to make sure that everything is, you know, as  
16 it should be to protect the environment and the public  
17 health. They have a vehicle limit in there as all permits  
18 should have. They have an LEA that's actually assessed  
19 and collected fines for going over something that was in  
20 their permit. You don't see that very often. And they  
21 had their community outreach meeting. And I just want to  
22 thank you. Everything looks great.

23 CHAIRPERSON MULÉ: Thank you, Board Member Peace.

24 Does the LEA or operator want to come and say  
25 anything? Do you have any comments to make?

1           Good morning.

2           MR. POINDEXTER: Good morning, Madam Chairperson  
3 and Committee member. I'm Don Poindexter. I'm the  
4 Operation Manager for County of Sonoma Public Works  
5 Department. And I'm manager for all the engineering and  
6 operations for the landfill and the transfer stations.  
7 And I appreciate your comments. I think we tried to do a  
8 good job and conscientious job, and I appreciate your  
9 staff's help. Thank you.

10          CHAIRPERSON MULÉ: Thank you. It shows that  
11 you're doing a good job. Thank you very much for being  
12 here today.

13          Do I have a motion?

14          MR. SWIFT: Good morning, Chair Mulé and Board  
15 Member Peace. I'd just like to thank you for your  
16 comments. Those are greatly appreciated. And I'd like to  
17 say I appreciate working with Waste Board staff. They're  
18 very helpful every step of the way. Thank you again.

19          CHAIRPERSON MULÉ: Thank you very much for your  
20 comments. Thank you for being here today.

21          Good morning. Could you state your name for the  
22 record?

23          DEPUTY DIRECTOR LEVENSON: That's for the next  
24 item.

25          CHAIRPERSON MULÉ: Next item okay. Sit tight.

1 Do I have a motion?

2 COMMITTEE MEMBER PEACE: I'd like to move  
3 Resolution 2006-94.

4 CHAIRPERSON MULÉ: I'll second that.

5 And Donnell, would you please call the roll?

6 SECRETARY DUCLO: Members Peace?

7 COMMITTEE MEMBER PEACE: Aye.

8 SECRETARY DUCLO: Wiggins?

9 Mulé?

10 CHAIRPERSON MULÉ: Aye.

11 And we'll hold that open for Board member  
12 Wiggins.

13 Okay next item, Item C. Committee Item C has  
14 been pulled.

15 So Committee Item D, Howard.

16 DEPUTY DIRECTOR LEVENSON: This item -- now it's  
17 time for Jenifer Kiger to come up -- is Consideration of a  
18 Revised Solid Facilities Permit for the Red Hill Transfer  
19 Station in Calaveras County.

20 MS. KIGER: Thank you, Mr. Levenson.

21 The proposed permit for the revision of the  
22 December 1993 solid waste facilities permit for the Red  
23 Hill Transfer Station. The facility's owned and operated  
24 by the Calaveras County Department of Public Works.

25 The proposed permit includes the following

1 changes: Updating the permit format; adjusting the  
2 permitted boundaries of transfer station to including the  
3 existing green waste and wood waste processing of storage  
4 areas known as the annex; limiting the amount of wood  
5 waste and green waste to no more than 10,000 cubic yards  
6 on site at any one time; and incorporation of the new  
7 transfer processing report dated May 2004.

8 Board staff have reviewed the proposed permit and  
9 supporting documentation and have determined that all the  
10 requirements for the proposed permit have been fulfilled.

11 On April 7th, 2006, Board staff performed a  
12 pre-permit inspection of the facility and found no  
13 violations. As indicated within the summary table of the  
14 Board's findings on page 3-3 of this agenda item, the  
15 proposed permit for the facility's in conformance with PRC  
16 Section 5001. The TPR's completeness is adequate and  
17 acceptable. And the environmental document is adequate  
18 for the proposed project.

19 In conclusion, Board staff recommends concurrence  
20 in the issuance of the proposed permit and adoption of  
21 Resolution Number 2006-96. That concludes staff's  
22 presentation.

23 Mr. Paul Feriani representing the LEA and Mr. Ron  
24 Jenson representing the operator are present to answer any  
25 questions you may have. Are there any questions?



1 CHAIRPERSON MULÉ: Thank you very much.

2 Do we have any questions, Board Member Peace?

3 COMMITTEE MEMBER PEACE: I just have one question

4 where it says there is no curb side garbage service in

5 Calaveras County and that all self-haulers come in. Is

6 the garbage separated? Is green waste separated and

7 recyclables, or is it all just --

8 MS. KIGER: Well, the organics area is an area

9 where the public would drop off their green and wood

10 waste. They do have recycled drop off, but the waste goes

11 into a little hopper into a compactor. So they have

12 everything that a large transfer station has available to

13 them.

14 CHAIRPERSON MULÉ: Does the operator want to come

15 up and explain how the materials if and how they are

16 separated? Could you please state your name for the

17 record?

18 MR. JENSON: I'm Ron Jenson with Calaveras County

19 Public Works.

20 This facility is limited to the public. We have

21 a separate facility, even a separate address for the green

22 waste, and the transfer station handles all the normal

23 household residential waste. So they're actually two

24 separate facilities connected in the proposal by shared

25 utilities. So there are no commercial curbside haulers

1 that would be using this facility.

2 COMMITTEE MEMBER PEACE: I was just curious it  
3 says no curbside service. Where do they drop off  
4 recyclables? Are they separated?

5 MR. JENSON: Yes. There's a separate receptacle  
6 at the transfer station for all the different recyclables.

7 COMMITTEE MEMBER PEACE: Great.

8 CHAIRPERSON MULÉ: Thank you, Ron. And thank you  
9 for being here. Thank you for being here, Paul.

10 Okay. Do I have a motion?

11 COMMITTEE MEMBER PEACE: I want to thank the  
12 operator and the LEA. This is a beautiful permit. It's a  
13 complete permit that came in in a time frame that allowed  
14 the Board to do a proper review, and I appreciate that.  
15 Also, you had your public comment period and everything is  
16 all in order and I really appreciate that.

17 So with that, I would like to move Resolution  
18 2006-96.

19 CHAIRPERSON MULÉ: I'll second that.

20 Donnell, would you call the roll?

21 CHAIRPERSON MULÉ: Members Peace?

22 COMMITTEE MEMBER PEACE: Aye.

23 SECRETARY DUCLO: Wiggins?

24 Mulé?

25 CHAIRPERSON MULÉ: Aye.

1           We'll hold that open for Board Member Wiggins as  
2 well.

3           Thank you, you all. Thank you for being here.

4           Howard, next item, which is Item E.

5           DEPUTY DIRECTOR LEVENSON: Now we're going to  
6 move into a series of three items related to our Farm and  
7 Ranch and Solid Waste Cleanup Programs. The first one is  
8 Consideration of Grant Awards for the Farm and Ranch Solid  
9 Waste Cleanup and Abatement Grant Program. That's for  
10 fiscal year 2005-2006. And Carla Repucci will be making  
11 this presentation.

12           MS. REPUCCI: Good morning, Chair Mulé and  
13 Committee members. My name is Carla Repucci, and I will  
14 present Item E for the consideration of three applications  
15 for Farm and Ranch Solid Waste Cleanup and Abatement  
16 Grants.

17           The amount requested in these applications being  
18 brought before you today is \$148,684 and represent the  
19 last award of the 05-06 fiscal year. The Farm and Ranch  
20 Grant Program began in 1999 and provides up to \$1 million  
21 each year to clean up illegal disposal sites on farm and  
22 ranch property.

23           In January of 2003, SB 1328, which was authored  
24 by Senator Chesbro, became effective and made some  
25 important changes for the program. In particular, the

1 amount of funding available for each cleanup project and  
2 for each applicant was increased, and Native American  
3 Tribes and Resource Conservation Districts became eligible  
4 to apply, whereby only local government were eligible  
5 previously.

6           Each applicant may now request up to \$50,000 per  
7 site and up to \$200,000 per fiscal year. There is  
8 \$486,542 remaining in the fund for this fiscal year.  
9 Three applications requesting the cleanup of three sites  
10 were received this quarter. The applications were  
11 reviewed for eligibility, scored, and are being  
12 recommended for approval today. Approval of these  
13 applications as recommended would leave \$337,858 in the  
14 fund.

15           The sites being requested for clean up are in the  
16 counties of Toulumne, Sonoma, and Humboldt. Removal of  
17 the waste will restore the properties back to their  
18 natural state and remove the threat to public health and  
19 safety and the environment. Each of the three applicants  
20 have indicated efforts to prevent waste from being  
21 re-deposited on the sites. The efforts include fencing,  
22 gates, posting of signs, and increased surveillance.

23           Agenda Item E is for the Consideration of Three  
24 Grant Applications for Farm and Ranch Grants. Each  
25 application meets the eligibility requirement set forth by

1 the statute. Therefore, staff recommend the Board adopt  
2 2006-97 authorizing the award of up to \$148,684 for the  
3 applications from the Toulumne County Resource  
4 Conservation Districts and the Counties of Sonoma and  
5 Humboldt and directing staff to develop and execute grant  
6 agreements. I would be happy to answer any questions.

7 COMMITTEE MEMBER PEACE: I have a question.

8 CHAIRPERSON MULÉ: Thank you, Carla.

9 COMMITTEE MEMBER PEACE: You said this is the  
10 last award for 05-06 and there's over \$300,000 left. What  
11 happens to that amount now? Does it stay in the fund or  
12 go back to the Used Oil and the Tire Fund and IWMA or what  
13 happens to it?

14 MR. WALKER: Scott Walker, permitting and  
15 enforcement division. It's what happens is next year's  
16 appropriation will be adjusted so that there's less --  
17 about little over \$112,000 less transferred from each of  
18 the three funds, the IWMA, the Tire Fund, and the Used Oil  
19 Fund.

20 COMMITTEE MEMBER PEACE: Thank you.

21 And then I have a question on Humboldt County.  
22 Since this is reimbursement, can you tell me what Green  
23 Diamond resource company does, what kind of current farm  
24 activity they have?

25 MS. REPUCCI: This is all timber land. So

1 they're managing timber land.

2 COMMITTEE MEMBER PEACE: So that's all, just  
3 growing the trees? They don't do -- well, let me ask this  
4 question. What kind of, how long has the Green Diamond  
5 Resource Company owned this property?

6 MS. REPUCCI: I'd have to look at that  
7 application for that specific information. I have it here  
8 with me but it might take me a few minutes.

9 COMMITTEE MEMBER PEACE: I'd like to know that.

10 MS. REPUCCI: Okay.

11 CHAIRPERSON MULÉ: Let the record reflect that  
12 Board Chair Margo Reed Brown is here with us. And also  
13 let the record reflect that Board Member Wiggins has  
14 joined us.

15 So Carla, while you're doing your research, what  
16 we will do is we will -- Donnell, if you could just get  
17 the record to reflect that Board Member Wiggins is here  
18 and also we did vote Pat on items 1 and 3 item. Two was  
19 pulled or Committee -- Item B and D item C was pulled. So  
20 if you want to log in your vote for item B.

21 COMMITTEE MEMBER WIGGINS: Aye on Item B.

22 CHAIRPERSON MULÉ: So that pass unanimously and  
23 we'll put that on consent.

24 And then Item D.

25 COMMITTEE MEMBER WIGGINS: Aye on Item D.

1           CHAIRPERSON MULÉ: Okay. So that passes and that  
2 will be put on the consent as well.

3           And we're now on Item E, which is the Farm and  
4 Ranch Grant Awards. So it's Board Agenda Item 4,  
5 Committee Item E. And do you have a question?

6           COMMITTEE MEMBER WIGGINS: Yes, I do.

7           My question is what happens with this major fund  
8 balance at the end of the year?

9           CHAIRPERSON MULÉ: Just before you got here, just  
10 as you were getting settled, Board Member Peace asked that  
11 same question.

12          COMMITTEE MEMBER WIGGINS: And the answer is?

13          CHAIRPERSON MULÉ: I think we all had the same  
14 question so Scott, would you like to repeat the answer for  
15 us?

16          BRANCH MANAGER WALKER: Scott Walker, Permitting  
17 and Enforcement Division.

18          What happens is that there will be 337,000 or  
19 little bit more than that the carry over will be --  
20 they'll be less by that amount transferred from the three  
21 funds: IWMA, Tire Fund, and Used Oil. So each one of  
22 those funds will have an additional one-third of that  
23 carry over.

24          COMMITTEE MEMBER WIGGINS: I don't follow,  
25 one-third.

1           BRANCH MANGER WALKER: The Farm and Ranch Fund is  
2 split funded from transfers from the three funds,  
3 one-third, one-third, one-third. So if we have a carry  
4 over to next fiscal year, THOSE three funds will get a  
5 proportionate less amount transferred.

6           CHAIRPERSON MULÉ: So the funds don't carry over  
7 basically? They revert back to their original funding  
8 source, whether it's tires, oil, or IWMA.

9           BRANCH MANGER WALKER: Essentially, yes.

10          CHAIRPERSON MULÉ: I think that's the  
11 clarification that we all need.

12          COMMITTEE MEMBER WIGGINS: Okay. That was  
13 helpful.

14          CHAIRPERSON MULÉ: So basically, that \$337,000  
15 cannot be -- it's lost because it goes back to those other  
16 funds; correct?

17          BRANCH MANGER WALKER: Yes. But another thing to  
18 keep in mind is the way those three funds work, the Budget  
19 Office informed us that will, as far as additional  
20 discretionary moneys next fiscal year, only the Used Oil  
21 Fund will have an additional one-third of that as  
22 discretionary funding -- additional discretionary funding.

23          COMMITTEE MEMBER WIGGINS: Will they be given  
24 less next year?

25          BRANCH MANGER WALKER: What? The three funds?



1 No.

2 COMMITTEE MEMBER WIGGINS: They'll be giving the  
3 same?

4 BRANCH MANGER WALKER: They'll be given the same,  
5 but they will have an addition of this carry over. So  
6 they're going to have -- they got a current budget right  
7 now proposed. They're going to have a little bit more.

8 COMMITTEE MEMBER WIGGINS: To give back to the  
9 Ranch Fund?

10 BRANCH MANGER WALKER: From the carry over Ranch  
11 Fund.

12 COMMITTEE MEMBER WIGGINS: Good. Thank you.

13 CHAIRPERSON MULÉ: Carla, looks like you're  
14 ready.

15 MS. REPUCCI: Well, I'm ready as I am on the spot  
16 here.

17 I'm not sure this will answer your question, but  
18 the Green Diamond Resource Company, the application says,  
19 was created in June of 2002. Simpson Resource Company is  
20 the parent company of Green Diamond Resource Company. So  
21 if that doesn't adequately answer your question, we can do  
22 some more research and get back to you later in the week.

23 COMMITTEE MEMBER PEACE: It's possible they could  
24 have bought the property in 2002? Is it a possibility  
25 they could have bought the property --

1 MS. REPUCCI: It's a possibility.

2 COMMITTEE MEMBER PEACE: They could have bought  
3 the property in 2002 knowing there was all this waste on  
4 the property; is that a possibility?

5 MS. REPUCCI: Yes, it's a possibility.

6 COMMITTEE MEMBER PEACE: It's also a possibility  
7 that maybe they got a discount on the property when they  
8 bought? Saying if buy this property, all this waste is on  
9 the property. We know it's going to cost you \$75,000,  
10 \$100,000 to clean it up take it. We'll take that off the  
11 price of the property. Is that a possibility?

12 MS. REPUCCI: It is a possibility.

13 COMMITTEE MEMBER PEACE: I guess I feel real  
14 uncomfortable about this. I know in the past we did a  
15 couple reimbursements. One was like \$640 to a private  
16 property owner, and then another one was for a couple  
17 thousand. But I really have a problem with this one  
18 reimbursing something that's two years -- that happened  
19 two years ago. Do we make sure we have all the receipts  
20 and all the documentation and everything from two years  
21 ago?

22 CHAIRPERSON MULÉ: Howard, do you want to address  
23 that?

24 DEPUTY DIRECTOR LEVENSON: Well, I can't quite  
25 address the question directly, but I would say if there's

1 specific questions that you would like us to research over  
2 the next week, we can. The site is eligible for  
3 reimbursement, and we don't have any other criteria other  
4 than the specific eligibility and scoring criteria to go  
5 on. So the only recommendation we can make at this point  
6 would be to go ahead and recommend funding for that  
7 particular project.

8 COMMITTEE MEMBER PEACE: There's nothing at this  
9 point that says you can go back and reimburse? You can go  
10 back for two years? You can go back for five years? You  
11 can go back for ten years? I mean, how far back can you  
12 go?

13 MS. REPUCCI: There is nothing in the statute  
14 that precludes any specific amount of time. As long as  
15 they have the documentation, the photographs, the  
16 receipts, and it's an eligible site, then it's allowed.

17 COMMITTEE MEMBER PEACE: I guess for me, until I  
18 know when they bought the property and they knew all that  
19 was there when they bought the property --

20 MS. REPUCCI: I'm not sure that there was a  
21 transfer in ownership, just perhaps a change in name.

22 COMMITTEE MEMBER PEACE: Do we know that for  
23 sure?

24 BRANCH MANGER WALKER: Scott Walker, Permitting  
25 and Enforcement Division.

1           What we can do is we can go back between now and  
2 the Board meeting to do a little bit more research on the  
3 site, because I understand that one of the things we need  
4 to do is check when was the dumping found in relation to  
5 the ownership of this entity, which is key. And so I  
6 think right now probably the best thing we can do is to go  
7 back and do a little bit more research between now and the  
8 Board meeting and answer that question.

9           COMMITTEE MEMBER PEACE: Thank you.

10          STAFF COUNSEL LEVINE: This is Steve Levine from  
11 Legal. If I may interject. On the specific issue that  
12 you're raising of if they bought the property at a  
13 discount because of the waste and then applied -- well,  
14 actually, Carla, wouldn't it be at the present owner  
15 itself would be asking for reimbursement of expenses it  
16 incurred, isn't that your UNDERSTANDING of this  
17 application?

18          MS. REPUCCI: The present owner, yes, is asking  
19 for reimbursement.

20          DEPUTY DIRECTOR LEVENSON: So it shouldn't be  
21 that at this situation with the reimbursement grant that  
22 even if it was a present owner that bought it with the  
23 waste on site and got a discount, that probably is not  
24 happening here, because it's a reimbursement grant and  
25 this present owner needs to show here are my bills for

1 what I paid.

2           On the other hand, there can be scenarios exactly  
3 as you're stating where a present owner buys it and then  
4 gets a discount and then asks for a cleanup grant to clean  
5 up the waste now and he's gotten \$50,000 off the property.  
6 Now he's asking us for 50,000 to clean it up. Presently,  
7 that is eligible under the program, and the regulations  
8 allow that. So if you were concerned about something like  
9 that, that would be something that would need to be  
10 adjusted in the regulations.

11           CHAIRPERSON MULÉ: Thank you, Steve, for that  
12 clarification.

13           Board Member Wiggins.

14           COMMITTEE MEMBER WIGGINS: On Tulare, what is  
15 four tons of agricultural waste? Just what is it?

16           MS. REPUCCI: If you'll hang on just a second,  
17 I'll look that up for you. It looks like from the  
18 photograph it's tree trimmings and -- hard to tell  
19 specifically from the photos.

20           COMMITTEE MEMBER WIGGINS: Well, also 100 tons of  
21 solid waste is a lot of --

22           MS. REPUCCI: I have some great photographs here  
23 if I'd like to see them. It's pretty amazing. Would you  
24 like to see the photos?

25           COMMITTEE MEMBER WIGGINS: Well, after we're

1 done, yeah.

2 DEPUTY DIRECTOR LEVENSON: Since we have a  
3 question about the Humboldt grant, perhaps while we're  
4 researching that over the next week we can send an e-mail  
5 or distribute some of the pictures of the site to the  
6 Committee members and Board members.

7 CHAIRPERSON MULÉ: Yeah, to all the Board  
8 members. That would be helpful.

9 So what we'll do is we will move this item to the  
10 full Board and allow staff to conduct their research on  
11 the Humboldt County grant award.

12 COMMITTEE MEMBER WIGGINS: I would like to move  
13 this. This is my hearing, unless somebody is from Tulare.

14 COMMITTEE MEMBER PEACE: Can we move part of it?

15 CHAIRPERSON MULÉ: We can move it conditional  
16 upon the research coming back from Humboldt -- can we do  
17 that legal staff?

18 BOARD MEMBER BROWN: You can move it to consent.  
19 And if there's not sufficient information, pull it from  
20 consent on Tuesday.

21 CHAIRPERSON MULÉ: Fiscal consent.

22 STAFF COUNSEL BLOCK: Or you can even just move  
23 it with a recommendation to the Board conditional upon  
24 satisfactory answer. Because there certainly WOULD BE a  
25 presentation. You can do either way.

1 COMMITTEE MEMBER WIGGINS: Humboldt is going to  
2 be just fine. So I would like to move Resolution 2006-97.

3 CHAIRPERSON MULÉ: Do I have a second?

4 I'll second it.

5 Donnell, would you please call the roll?

6 SECRETARY DUCLO: Member Peace?

7 COMMITTEE MEMBER PEACE: No. I'm still concerned  
8 about going back a couple years and doing this until I get  
9 some more answers, so no.

10 SECRETARY DUCLO: Wiggins?

11 COMMITTEE MEMBER WIGGINS: Aye.

12 SECRETARY DUCLO: Chair Mulé?

13 CHAIRPERSON MULÉ: Aye.

14 So we will move that to the full Board. It can  
15 go to the full Board, but not on consent. Okay. And  
16 staff will go back and you'll do your research on Humboldt  
17 County and get the answers to Board Member Peace; correct?

18 MS. REPUCCI: Yes.

19 DEPUTY DIRECTOR LEVENSON: We'll distribute any  
20 information we get to all Board members prior to the Board  
21 meeting.

22 CHAIRPERSON MULÉ: Absolutely. Very good. Okay.

23 Thank you.

24 Next item, Howard, is Committee Item F.

25 DEPUTY DIRECTOR LEVENSON: This also has to do

1 with the Farm and Ranch Solid Waste Cleanup Program. This  
2 is consideration of the scoring criteria and evaluation  
3 process for the program for fiscal years 2006-07 and  
4 2007-08.

5 And Carla will get make this presentation.

6 MS. REPUCCI: Thank you, Howard.

7 Item F is for the Consideration of the Scoring  
8 Criteria and Evaluation Process for the Farm and Ranch  
9 Solid Waste Cleanup and Abatement Grant Program for Fiscal  
10 Years 2006-2007 and 2007-2008.

11 The purpose of the program is to clean up illegal  
12 disposal sites on farm and ranch property. In order to be  
13 eligible for clean up through this program, the property  
14 owner must certify that he or she did not authorize the  
15 deposition of the waste. A property owner eligible for  
16 clean up through this program is not required to pay back  
17 the funds. Cities, counties, resource conservation  
18 districts, and federally recognized Native American tribes  
19 are eligible to apply for these funds on behalf of the  
20 property owner.

21 Eleven Farm and Ranch Grants have been awarded  
22 this fiscal year, and another three I just discussed in my  
23 last item. If those three are approved by the Board, the  
24 number of grants awarded this year will be 14 for a total  
25 of \$579,286.



1           The purpose of this item before you today is to  
2 consider minor revisions to the scoring criteria for the  
3 Farm and Ranch Grant Program. The current scoring  
4 criteria were approved by the Board in July of 2004 and  
5 have been utilized for the past two fiscal years. The  
6 proposed changes would restructure the individual criteria  
7 within the need section to allow for more definitive  
8 scoring, allow applicants to include a statement in the  
9 application certifying they have a recycled content  
10 purchasing policy as opposed to requiring the submittal of  
11 the policy. This change will reduce application  
12 preparation time and save paper.

13           And the final change will help give new  
14 applicants a little more of a leg up. The current scoring  
15 criteria awards seven point to those applicants that did  
16 not receive a grant in the previous fiscal year. The  
17 revised scoring criteria presented before you today adds  
18 current fiscal year grantees as being in eligible for  
19 those seven point. This change will reduce the number of  
20 repeat applicants eligible for the points thereby further  
21 assisting new applicants.

22           Staff recommends the Board adopt Resolution  
23 2006-98 authorizing staff to use the revised scoring  
24 criteria and evaluation process for the Farm and Ranch  
25 Solid Waste Cleanup and Abatement Grant Program.

1 I would be happy to answer any questions.

2 DEPUTY DIRECTOR LEVENSON: If I could just add  
3 one follow on to Carla's presentation. To reiterate,  
4 these are minor changes in the current scoring criteria.  
5 I do want to acknowledge the discussion we just had on the  
6 previous item and would suggest that the issue that Ms.  
7 Peace raised is a regulatory issue, that after we find out  
8 what happens with AB 2211 this year, which is dealing with  
9 proposed changes to the Solid Waste Cleanup program, we do  
10 intend to come back to the Committee with seeking your  
11 decision to make some further regulatory changes to both  
12 the solid waste clean up program and the farm and ranch  
13 program. So if the Board so desired we certainly could  
14 address that issue as part of that later in the rule  
15 making.

16 CHAIRPERSON MULÉ: Thank you, Howard, for that  
17 comment.

18 And thank you, Carla.

19 I agree with your comment, Howard.

20 Any questions? Board Member Wiggins.

21 COMMITTEE MEMBER WIGGINS: I think it's a great  
22 idea to add that seven points for people who haven't  
23 qualified or applied in the past.

24 But I don't understand why you're taking away the  
25 actual recycling certification and just letting them say

1 they're going to do it. I don't think that's a good idea.

2 MS. REPUCCI: It's not we're allowing them to say  
3 they're going to do it. We're allowing them to  
4 self-certify they do have a policy. So instead of sending  
5 in maybe a ten-page document to us, they can just simply  
6 check a box.

7 CHAIRPERSON MULÉ: And Carla, you can follow up  
8 and request that information if needed; correct?

9 MS. REPUCCI: Certainly.

10 COMMITTEE MEMBER WIGGINS: I still don't think  
11 that's a good idea.

12 MS. REPUCCI: I was kind of taking the lead from  
13 another grant program one. Of the grants in the Oil  
14 Program made this change earlier this year. So I was  
15 taking their lead.

16 CHAIRPERSON MULÉ: I know. We're trying to have  
17 all of our grant programs be somewhat consistent, or as  
18 consistent as we can. So I appreciate your comments with  
19 making these minor changes.

20 And again, Howard, once we find out what happens  
21 with 2211, we can go into developing the appropriate  
22 regulatory changes. With that, any other questions?  
23 Board chair.

24 BOARD MEMBER BROWN: Is part of this part of the  
25 application to encourage jurisdictions to adopt a recycled

1 content policy or just evaluate it? Because if it is, is  
2 there a possibility to add some points for a jurisdiction  
3 or an applicant if they will adopt a policy during the  
4 grants process?

5 MS. REPUCCI: That is part of our criteria, 15  
6 points.

7 BOARD MEMBER BROWN: Actually, it says if you do  
8 it within a month. But if these are local jurisdictions  
9 unless they'll already done all of the work they their  
10 county Board or City Council wouldn't be able to get it  
11 going during the grant process or the implementation of  
12 the grant if they didn't already have all the work done.

13 So the question I guess is, is it even worth two  
14 or three points to encourage them to do it within the  
15 year?

16 DEPUTY DIRECTOR LEVENSON: Madam Chair, if I  
17 could answer that in a little bit broader context. The  
18 recycled content policy provisions of all of our programs  
19 have been a debatable issue for many, many years and. So  
20 we have gone through a number of deliberations internally  
21 with the grant Executive Oversight Committee.

22 I would just ask that if there are changes that  
23 are going to be made regarding when a recycled content  
24 policy, that this can be adopted that this be considered  
25 in the prior context of all the grant programs rather than

1 on a case by case basis.

2 BOARD MEMBER BROWN: Agreed. Thank you. I'll  
3 just ask for an opinion then.

4 CHAIRPERSON MULÉ: And I believe from experience  
5 most of these jurisdictions are aware of our policies.  
6 So --

7 BOARD MEMBER BROWN: They probably would.

8 CHAIRPERSON MULÉ: And they should have been  
9 working on it for some time. So hopefully everyone has a  
10 recycled content purchasing policy by now.

11 DEPUTY DIRECTOR LEVENSON: I guess from some  
12 jurisdiction's perspective who have already adopted a  
13 recycled content policy, they might find the provision of  
14 additional points a disadvantage. You're rewarding  
15 someone who has not necessarily gotten to that point. So  
16 I think this is something we'd have to think further  
17 about, if that's okay.

18 CHAIRPERSON MULÉ: Good point.

19 Question, Board Member Wiggins?

20 COMMITTEE MEMBER WIGGINS: Well, I'm not going to  
21 support this because I think that they really need to show  
22 they have a bona fide recycled policy.

23 CHAIRPERSON MULÉ: Okay. Do I have a motion?

24 COMMITTEE MEMBER PEACE: I'd like to move  
25 Resolution 2006-98.

1 CHAIRPERSON MULÉ: And I'll second that.

2 Donnell, would you call the vote?

3 CHAIRPERSON MULÉ: Members Peace?

4 COMMITTEE MEMBER PEACE: Aye?

5 SECRETARY DUCLO: Wiggins?

6 COMMITTEE MEMBER WIGGINS: No.

7 SECRETARY DUCLO: Chair Mulé?

8 CHAIRPERSON MULÉ: Aye.

9 So we have that one can move forward on concept  
10 to the full Board.

11 EXECUTIVE DIRECTOR LEARY: Not consent, Madam  
12 Chair, because you don't have a full three-zero vote.

13 CHAIRPERSON MULÉ: Even if we have two we don't  
14 move it to the Board?

15 EXECUTIVE DIRECTOR LEARY: You can move it to the  
16 Board. It's not on consent. We will take the item up  
17 again at the full Board and present it.

18 CHAIRPERSON MULÉ: Thank you.

19 Okay. Next item is Committee Item G, Howard.

20 DEPUTY DIRECTOR LEVENSON: We'll shift over to  
21 the Solid Waste Cleanup Program. This is Consideration of  
22 two Grant Awards for the Solid Waste Disposal and  
23 Codisposal Program for Fiscal Year 2005-2006. And making  
24 the presentation by my side here is Wes Minderman.

25 CHAIRPERSON MULÉ: Good morning, Wes.

1           MR. MINDERMAN: Thank you, Howard. Good morning,  
2 Madam Chair and members of the Committee.

3           Just as a little bit of background, the Solid  
4 Waste Disposal and Disposal Site Cleanup Program addresses  
5 the clean up of solid waste disposal sites and codisposal  
6 sites where the responsible party either cannot be  
7 identified or is unable or unwilling to perform the timely  
8 remediation and where the cleanup is needed to protect the  
9 public health and safety or the environment. Cleanup  
10 projects are implemented through Board-managed contracts,  
11 grants which we have for your consideration today, and  
12 also loans.

13           The item before you this morning for your  
14 consideration is for two new grants totaling \$1.25 million  
15 for the fourth and last cycle under the program in fiscal  
16 year 2005-2006 which staff have evaluated and are  
17 recommending approval of.

18           Before we go any further too, I want to emphasize  
19 that this is the last cycle for this fiscal year for  
20 grants. Staff are continually working on new projects,  
21 whether it be grants or what we call Board-managed  
22 cleanups which are performed under our contracts. We have  
23 several projects that we're in the process of trying to  
24 bring to the Board for consideration throughout the state,  
25 whether it be Crescent City, or as Howard mentioned when

1 he started off under his Deputy Director's report the  
2 Torres Martinez reservation sites. We're continually  
3 working on those sites. The issues we're trying to work  
4 through include everything from site access to developing  
5 the project for the Board, working with our contractors to  
6 develop work plans, and also working with grantees to  
7 develop applications for the next fiscal year.

8           So with that, I'll go ahead and describe the  
9 projects for your consideration.

10           DEPUTY DIRECTOR LEVENSON: I'd like to interject  
11 two points. One is that the funds are continuously  
12 appropriated. So unlike other grant programs, they still  
13 are available for your consideration of various grants and  
14 Board-managed projects. Secondly, Wes mentioned the site  
15 access issue, and I just want to flag to the Board this is  
16 one of the more difficult aspects of developing these  
17 projects is getting access to the site to do preliminary  
18 investigations. There's a lot of legal work that has to  
19 be undertaken and permission. We have proposed  
20 legislative proposals in the past to try to gain more site  
21 access, but they have not gone anywhere. It's certainly a  
22 controversial issue, but I just wanted you to be aware of  
23 that.

24           DEPUTY DIRECTOR LEVENSON: Steven Levine from  
25 Legal if I can very briefly add. Certain types of



1 legislation that Howard is mentioning has been similar to  
2 what the Waste Tire Program already has. There is a  
3 methodology at least for enforcement proceedings to get  
4 access for clean up in a much more streamlined way, and  
5 we're having difficulty getting similar language in the  
6 P&E side. So we're hoping since we already have one  
7 program, that may be an additional impetus.

8 CHAIRPERSON MULÉ: Thank you.

9 Wes.

10 MR. MINDERMAN: Okay. The Los Angeles County  
11 Illegal Disposal Site Cleanup Grant for your consideration  
12 this morning represents the collaborative pilot program  
13 between the County of Los Angeles and the Union Pacific  
14 Railroad to resolve illegal dumping issues that directly  
15 take plans on the county rights of way and Union Pacific  
16 Railroad property, but affect local communities through  
17 which the Union Pacific Railroad right of way runs.

18 Los Angeles County has identified 15 locations on  
19 property owned by the railroad that are persistently  
20 subjected to illegal dumping. All of these locations are  
21 easily accessible from public right of ways, giving the  
22 offenders the ability to frequently drive to these sites  
23 and dump bulky items and large quantities of trash.

24 The County has requested a matching grant from  
25 the program to assist in the cleanup of the 15 illegal

1 disposal sites. The Union Pacific Railroad has agreed to  
2 remove and properly dispose of all the solid waste  
3 illegally dumped on their property, provided that the  
4 County prevent future illegal dumping by restricting  
5 access from the County right-of-ways by installing a  
6 permanent fence around each site.

7 In addition, "no dumping" signs will be posted at  
8 each of the sites, and the County will conduct illegal  
9 dumping prevention and outreach activities targeting  
10 affected neighborhoods. The total project cost is \$1.6  
11 million. The County has requested that the Board provide  
12 funding up to \$750,000 to install the fencing with the  
13 County funding the remaining cost for the project.

14 With respect to the City of Sacramento Illegal  
15 Disposal Site Cleanup Grant, the City has identified four  
16 chronic zones where illegal dumping is a persistent  
17 problem. By targeting these zones through a variety of  
18 proactive and reactive measures, the City believes it will  
19 achieve major advances towards eradicating illegal dumping  
20 citywide. The City proposes an expanded eight-step  
21 program to combat illegal dumping and aggressively  
22 confront the problem through timely removal of trash,  
23 physical preventative measures, enforcement and sting  
24 operations, and proactive outreach and education.

25 In an effort to coordinate the various phases of

1 the program, the City has formed an illegal dumping task  
2 force consisting of numerous City offices and departments  
3 and the Sacramento Municipal Utilities District as an  
4 outside private partner with the City.

5 The total cost of the project is estimated to be  
6 \$1.02 million with grant funds totaling up to half a  
7 million dollars. Grant funds would be used primarily for  
8 specifically listed eligible activities under the program  
9 regulation, including cleanup and site security measures.  
10 Grant funds would be used for potentially eligible but not  
11 specifically listed activities under the regulation,  
12 including a portion of the cost for apprehension and  
13 prevention, sting operations, and community outreach.

14 The City will use its own funds to fund services  
15 such as the purchase and installation of surveillance  
16 camera and website operations, training, awareness, and a  
17 rewards program, and an education program.

18 That concludes my presentation on both of the  
19 proposed grants this morning. Staff are recommending that  
20 the Board approve the proposed grants and adopt Resolution  
21 Number 2006-99.

22 CHAIRPERSON MULÉ: Thank you, Wes.

23 We do have two speakers, so with the Committee's  
24 concordance, I would like for them to come up and speak  
25 and then we'll take questions.

1           Our first speaker is Majed Araba.

2           MR. ARABA: Good morning. Thank you, Madam Chair  
3 and Committee members. My name is Majed Araba. I'm  
4 Senior Engineer with the County of Los Angeles Department  
5 of Public Works.

6           I want to thank you for the opportunity to give  
7 it to us this morning and just to reiterate that this  
8 project is part of the County of Los Angeles' overall  
9 project to capture the trash within the county and to also  
10 prevent Illegal dumping within the unincorporated county  
11 of Los Angeles. We want to thank you for considering our  
12 grant and this morning, and I would be more than happy to  
13 answer any questions you may have.

14          CHAIRPERSON MULÉ: Thank you. Thank you for  
15 being here.

16          Any questions?

17          Our next speaker -- do you have a question?

18          COMMITTEE MEMBER PEACE: It sounds like you have  
19 been working with the Union Pacific Railroad and they've  
20 agreed to clean it up and the County is going to put in  
21 the fencing.

22          MR. ARABA: Yes, we have. And they have agreed  
23 to the projects and they are in support of the project.

24          COMMITTEE MEMBER PEACE: Thank you.

25          CHAIRPERSON MULÉ: Thank you for being here.

1           Our next speaker is Marty Strauss, City of  
2 Sacramento.

3           MR. STRAUSS: I just wanted to be able to say  
4 thank you for the opportunity and we're, myself and  
5 Mr. Harold Duffey, here to answer any questions if you  
6 have any.

7           CHAIRPERSON MULÉ: Any questions for Mr. Strauss?

8           MR. STRUASS: I'm Marty Strauss, City of  
9 Sacramento.

10          CHAIRPERSON MULÉ: Any questions for Mr. Strauss?

11          No. Thank you for being here.

12          Okay. Questions? Board Member Wiggins.

13          COMMITTEE MEMBER WIGGINS: I'm just wondering --  
14 I'm wondering how much money we will start out with on  
15 this fund in 2006-2007, because I don't think -- I think  
16 it's more than what we show.

17          MR. MINDERMAN: Right now as indicated on the  
18 funding strip in the agenda item, we are showing the  
19 unencumbered -- I'll start over from the beginning.

20          Right now in the funding strip information  
21 provided in the agenda item, we're showing an unencumbered  
22 balance of about \$4.1 million. As Howard indicated  
23 earlier, this trust fund is continually appropriated  
24 without regard to fiscal year. So the unused funds will  
25 carry over into the next fiscal year.

1 Right now in the Governor's proposed budget,  
2 which hasn't been adopted yet, this fund is scheduled to  
3 receive a transfer of \$5 million from the Integrated Waste  
4 Management -- I'll start from the beginning again. Sorry.

5 As indicated on the funding information strip in  
6 the item, we are showing an unencumbered balance of about  
7 \$4.1 million. As Howard indicated earlier in the  
8 presentation, the Solid Waste Cleanup Trust Fund is  
9 continuously appropriated without regard to fiscal year.  
10 So these \$4.1 million will carry over into the next fiscal  
11 year.

12 Also, you have to consider that right now the  
13 Governor's proposed budget has the Trust Fund receiving a  
14 transfer from the Integrated Waste Management Account of  
15 \$5 million.

16 So if you ask me what was going to be available  
17 next fiscal year for the program, I would tell you based  
18 on the proposed budget and what we're currently showing,  
19 there's going to be approximately \$9 million plus or minus  
20 available for the program to use.

21 COMMITTEE MEMBER WIGGINS: That's a lot.

22 MR. MINDERMAN: That seems like a lot. But, you  
23 know, when you consider to size of the projects that we're  
24 beginning to see come into the program, and also these  
25 grants of \$750,000, it doesn't take a lot of \$750,000

1 grants to utilize those funds.

2           Also, we're also seeing a lot larger sites than  
3 we've experienced before in the program. As with the  
4 Aggregate Recycling site down in Huntington Park, which  
5 the Board cleaned up and was able to get cost recovery on,  
6 that cost recovery was over \$2 million. Howard mentioned  
7 the Torres Martinez illegal disposal sites. There are  
8 some very large projects we're working on right there that  
9 could conceivably utilize a lot of the funds we have  
10 available right now. So it seems like a lot, but --

11           COMMITTEE MEMBER WIGGINS: Well, this seems like  
12 the urban equivalent of the Ranch Fund.

13           DEPUTY DIRECTOR LEVENSON: It's both. It's  
14 certainly a lot of the funds are used for cleaning up  
15 urban sites, but they also used -- for example, we've  
16 cleaned up the Pryshepa site in Siskiyou County, which was  
17 kind of a semi-rural. We've cleaned up a site in San  
18 Benito County which was in an old abandoned mining area.  
19 So it's a mix of rural and urban sites.

20           COMMITTEE MEMBER WIGGINS: Okay. Thank you.

21           CHAIRPERSON MULÉ: Okay. Are there any other  
22 questions, Board Member Peace?

23           I do have a question regarding prevention, not  
24 only for this grant program but also for the Farm and  
25 Ranch. And I know that we have measures that --

1 enforcement measures that will hopefully prevent further  
2 illegal dumping from occurring in the future.

3           The question I have for staff is what if any  
4 follow-up do we do after the grant program ends to monitor  
5 the success of the program? I mean, okay, we spend all  
6 this money. We clean up a site. We put in preventative  
7 measures, whether it's signage or fencing or whatever.  
8 What follow up do we do in the long run in the long term  
9 to ensure that these sites don't go -- don't become  
10 illegal dump sites again?

11           MR. MINDERMAN: I can tell you, Madam Chair, that  
12 with respect to, you know, solid waste issues, it becomes  
13 very complicated. We do not have direct enforcement  
14 authority over these sites. However, with our grants  
15 where we fund some of these unique projects, like this  
16 collaborative effort between the railroad and the County  
17 of Los Angeles and also in other urban areas such as San  
18 Francisco and Vallejo, they are funding some unique  
19 aspects of illegal dumping enforcement that haven't been  
20 tried. We collect that information as part of the final  
21 report for the grant, and we also follow up with the local  
22 enforcement agencies at various times to make sure that  
23 the sites are remaining clean or that the illegal dumping  
24 at least in those areas is no longer an issue.

25           With respect to specific illegal dumping sites,



1 our LEAs do go out after the cleanup has been performed in  
2 most cases and do continued enforcement for a period.  
3 They can't continue to go out and do inspections forever,  
4 but they do follow up at the sites. And we do get that  
5 information back in the form of either an inspection  
6 report or letter saying that there are no further  
7 violations at the site. I mean, that's our goal when  
8 we're cleaning up illegal disposal sites is to achieve  
9 compliance.

10 DEPUTY DIRECTOR LEVENSON: These are primarily  
11 cleanup remediation programs. But what we have done  
12 historically is tried try to make sure that the  
13 applications do include a component that's devoted towards  
14 future prevention, for example, the fencing or  
15 surveillance and follow-ups. And that's been something  
16 for example that Ms. Peace has brought up numerous times  
17 over the last few years, and we tried to work with the  
18 applicants to get a better handle on that. But it's not  
19 something we can absolutely guarantee.

20 CHAIRPERSON MULÉ: Well, again, in terms of  
21 looking at performance measures and looking at our  
22 success, how successful have we been, and I don't mean  
23 just we, the Board. I mean we as a partner in the whole  
24 process.

25 DEPUTY DIRECTOR LEVENSON: I think in general

1 it's fair to say we've been successful. We can certainly  
2 give you case studies. One of the things about the  
3 smaller to medium-side cleanups is they are stopping a  
4 pile from getting to a larger state where it poses a very  
5 significant health and safety problem. Sometimes we try  
6 to strategy of having the Board approve a project with  
7 cost recovery included, and then we're hopeful, and this  
8 has worked a few times, the owner then says it would be  
9 more efficient and cheaper for me to clean it up myself.  
10 So that has happened and that stopped those sites from  
11 becoming an even bigger problem.

12 CHAIRPERSON MULÉ: And I appreciate the answers.  
13 And the reason why I'm asking this is again if we have a  
14 success, I think it would be appropriate for us to share  
15 it with the Legislature to let them know that we've  
16 successfully cleaned up a site. And that not only did we  
17 clean it up or we used Board funds in partnership with the  
18 local governmental agencies to clean it up, but that, you  
19 know, that site is no longer a problem or a threat to  
20 public health and safety. That's all. Again, it's just  
21 documenting our success and letting people know that we're  
22 out there doing all these good things. That's all.

23 Okay. Thank you. Any other questions?

24 COMMITTEE MEMBER PEACE: That's a good point  
25 Board Member Mulé makes. I know the tire moneys when we

1 get out grants and stuff, we'll send a letter to the  
2 Legislature in that area saying just awarded a grant. Do  
3 we do that with this program at all to let the legislators  
4 from that area know that the Waste Board has, you know,  
5 given out money for a cleanup in their area?

6 DEPUTY DIRECTOR LEVENSON: I don't think we have  
7 done that systematically in this program, and that's  
8 certainly something we can do.

9 COMMITTEE MEMBER PEACE: That would probably be a  
10 good idea to let them know. Okay.

11 CHAIRPERSON MULÉ: Any other questions?

12 Do I have a motion?

13 COMMITTEE MEMBER PEACE: I'd like to move  
14 Resolution 2006-99.

15 COMMITTEE MEMBER WIGGINS: Second.

16 CHAIRPERSON MULÉ: We have a motion by Board  
17 Member Peace, seconded by Board Member Wiggins.

18 Donnell, would you call the roll?

19 SECRETARY DUCLO: Members Peace?

20 COMMITTEE MEMBER PEACE: Aye.

21 SECRETARY DUCLO: Wiggins?

22 COMMITTEE MEMBER WIGGINS: Aye.

23 SECRETARY DUCLO: Chair Mulé?

24 CHAIRPERSON MULÉ: Aye.

25 That passes unanimously. We will put that on

1 fiscal consent.

2 Okay. Thank you, Wes.

3 Our next item is Committee Item H.

4 DEPUTY DIRECTOR LEVENSON: This item is

5 Consideration of a Contractor for the Assessment of

6 Landfill Gas Monitoring Well Viability and Its Effect on

7 Greenhouse Gas Emissions.

8 John Bell was scheduled to present this item. He  
9 was also supposed to be conducting training tours at  
10 landfills this weekend, but instead he's in the hospital.

11 He'll be okay, but he had to have a little bit of an  
12 emergency situation. So not only did we have to scramble  
13 yesterday to cancel the tour and let everybody know, it  
14 turned out I have to make the presentation this morning.  
15 So this is going to be a short presentation anyways, and  
16 you'll see why.

17 This item requests that the Board consider and  
18 approve a contractor to assess landfill gas monitoring  
19 wells. Specifically, this contract would assess the  
20 viability of existing landfill gas parameter monitoring  
21 systems to try to detect lateral gas migration and also  
22 provide data if we can to assist the California Energy  
23 Commission in refining its greenhouse gas emission models  
24 for landfills.

25 The final report will be due to the Board's

1 contract manager by summer of 2007. This contract if  
2 approved will implement one of the activities in the  
3 Board's Technology Assessment Action Plan and also feed  
4 into the work of the Climate Action Team.

5 Now, the Board approved the Scope of Work for  
6 this contract at its January 2006 meeting. Staff then  
7 implemented a competitive bid process to determine the  
8 best qualified firm for the proposed project. Only one  
9 proposal was received, and this was evaluated based on its  
10 technical merits.

11 The evaluation scores were provided to our  
12 contracts office on June 1st. State contracting  
13 procedures require that Board post what's called a Notice  
14 of Intent to Award for five full business days before a  
15 formal announcement can be made. Since this five-day  
16 requirement has not been yet as of today's meeting, we  
17 cannot formally announce whether we're recommending a  
18 contractor or not, even though it's been posted as intent.  
19 So we will have to do so at next week's Board meeting and  
20 repeat this presentation.

21 CHAIRPERSON MULÉ: That's fine. We're going to  
22 move this to the full Board.

23 Are there any questions for Howard?

24 COMMITTEE MEMBER PEACE: Do you want to ask  
25 questions now or at the full Board?

1 CHAIRPERSON MULÉ: You can ask them now.

2 COMMITTEE MEMBER PEACE: I was just looking  
3 through here where it says you're going select 20 sites.

4 DEPUTY DIRECTOR LEVENSON: Correct.

5 COMMITTEE MEMBER PEACE: How will those 20 sites  
6 be selected?

7 DEPUTY DIRECTOR LEVENSON: We had two staff go  
8 out into the field. They looked at sites that would  
9 provide us access to their parameter probes. They had to  
10 be -- and I'll probably get in trouble here because I'm  
11 not an engineer. They had to be of a -- the probes had to  
12 be of a certain depth so we could look at, you know,  
13 whether it was going through different layers of soil.  
14 Also had to be a certain distance away from the waste  
15 footprint because we want to be looking at lateral  
16 migration of gas, and there are a variety of other  
17 technical factors that I'll have to call John up in the  
18 intensive care.

19 COMMITTEE MEMBER PEACE: Some of these sites will  
20 be closed sites. They're not all going --

21 DEPUTY DIRECTOR LEVENSON: It can be closed or  
22 active.

23 COMMITTEE MEMBER PEACE: So it sounds like a lot  
24 of the stuff we're going to be doing in here according to  
25 industry they're already going to be doing. Didn't we

1 hear from Chuck White in regards to the Climate Action  
2 Team that they were doing studies and they didn't seem to  
3 think there was much landfill gas coming off?

4 DEPUTY DIRECTOR LEVENSON: They are somewhat  
5 related. This is looking at a more focused issue of  
6 public health and safety though with an ancillary add-on  
7 of looking at getting some data for climate change and  
8 greenhouse gas emissions.

9 The primary concern here is whether probes that  
10 have been installed in landfills whether they're active or  
11 closed, but that have been being used for 10, 20, 25 years  
12 whether they're really viable or not. We have a  
13 mini-camera that will be able to go down into the probes,  
14 and we were able to rent one, go out and do just a test  
15 one of the camera before we even proposed this project.  
16 And the first -- the only well we went out at looked it  
17 turned out it was not operating properly even though it  
18 was reporting zero emissions. We don't know whether  
19 that's an anomaly or whether this is true of a certain  
20 percentage of probes or not. That's the real primary  
21 focus here.

22 It will provide some data on the efficacy of  
23 these probes, and we are hoping we can use that data to  
24 feed into the Energy Commission modeling efforts, which is  
25 what Chuck White is concerned about and what are the

1 actual landfill gas emissions and capture efficiencies.  
2 But we wouldn't be looking at capture efficiencies for the  
3 actual landfill gas to energy technologies as part of this  
4 contract.

5 COMMITTEE MEMBER PEACE: I think this is  
6 something we really should know how viable these wells  
7 are, how they're working, and if maybe we need financial  
8 assurance past 30 years. Okay. Thank you.

9 CHAIRPERSON MULÉ: Okay. Thank you, Howard.  
10 Any other questions? Board Chair.

11 BOARD MEMBER BROWN: I have a quick question, and  
12 you may not know this, Howard. I was just curious in the  
13 Board presentation on page 7-3, it says, "A review panel  
14 of technical experts was established to evaluate the  
15 proposals." Were those staff experts? Do you know who  
16 the team was?

17 DEPUTY DIRECTOR LEVENSON: I don't know off hand  
18 who the team was. But it was staff experts. I certainly  
19 find out in the next day or two and let you all know.

20 BOARD MEMBER BROWN: This was an all in-house  
21 technical panel?

22 DEPUTY DIRECTOR LEVENSON: As far as I know.  
23 I'll have to check on that.

24 CHAIRPERSON MULÉ: Thank you.

25 Any other questions?



1           Our final agenda item for today is Committee Item

2 I.

3           DEPUTY DIRECTOR LEVENSON: This item is our last  
4 item. Discussion and Request for Rulemaking Direction to  
5 Notice for 45-Day Comment Period Proposed Regulations and  
6 Modifying the Emergency Temporary Waiver of Terms  
7 Regulations. Rather than my providing any context on  
8 this, I'm going to turn it straight over to Bob Holmes  
9 who's going to provide that context anyways.

10          CHAIRPERSON MULÉ: Good morning, Bob.

11          (Thereupon an overhead presentation was  
12 presented as follows.)

13          MR. HOLMES: Good morning, Madam Chair and  
14 members of the Committee.

15          I'd like to start off by explaining the purpose  
16 of these regulations. That is to allow an LEA to  
17 temporarily waive the terms and conditions of a solid  
18 waste facility permit during a temporary emergency as  
19 defined in the regulation. The vehicle that an LEA uses  
20 to waive those terms and conditions is called a Stipulated  
21 Agreement. So you may hear those two terms used  
22 interchangeably in the discussions today.

23          The intent is to provide for continued protection  
24 of public health and safety during those temporary  
25 emergencies. A good example of one is few years ago there

1 was a train derailment in Southern California. And in  
2 order to clean up that train derailment, the landfill  
3 needed to stay open longer than the hours that were  
4 allowed in the permit. So they extended the hours of  
5 operation through these waivers to allow for a quicker  
6 clean up of that derailment.

7           It's important to distinguish these regulations  
8 for temporary waiver from the emergency waiver standards,  
9 separate standards in regulation that are invoked when  
10 there is a declared state or local emergency such as with  
11 an earthquake or large fire. And that those regulations  
12 also allow the waiver of permit terms and conditions but  
13 also of minimum standards. But those are used only when  
14 there's declared emergency.

15           A little bit about the history of these  
16 regulations. They're an Evolution of an old Board policy  
17 adopted in 1990. The intent of that policy was to return  
18 sites to the terms and conditions of their permit when  
19 they were operating outside terms and conditions without  
20 getting into litigation. So they were facilities  
21 operating with permits and they were extending or going  
22 beyond those terms and conditions. This was a strategy  
23 that was invoked through policy to get those facilities  
24 back into compliance.

25           So that was adopted in 1990, used throughout that

1 decade. In early 2000, the Board began asking questions  
2 about how that policy was working. And at the same time,  
3 the Bureau of State Audits was doing an audit of the  
4 Board, and the final report, the final audit recommended  
5 that the Board discontinue the use of that policy.  
6 Largely, it was the fact it was a policy and not  
7 regulation that was their concern. So the Board directed  
8 staff to develop a rulemaking for that policy, which they  
9 did. The regulations first became effective as emergency  
10 regulations in late 2001 and then finally were adopted in  
11 April of '03.

12 Since that time, since '01 when we were in  
13 effect, LEAs have issued a number of Stipulated Agreements  
14 waiving the terms. And in many cases, in most cases, they  
15 were appropriate uses. However, in September of 2005, the  
16 Board heard two permits that were coupled with Stipulated  
17 Agreements. And this sparked some discussion particularly  
18 in two different areas, the definition of temporary  
19 emergency. That is what would constitute temporary  
20 emergency. What qualifies as a temporary emergency.

21 And the second was the authority of the Board's  
22 Executive Director which has some power in the review of  
23 the Stipulated Agreements. And there is a trigger whereby  
24 the Executive Director can condition, limit, or suspend,  
25 or terminate the use of a Stipulated Agreement. However,

1 that trigger can be interpreted as requiring a  
2 determination of actual causation of harm. In other  
3 words, the Board would have to determine that the use of  
4 that Stipulated Agreement is causing harm before the  
5 Executive Director can take action to limit or suspend  
6 that.

7 In staff's determination and review, we find that  
8 to be an unreasonable, unnecessary standard. And it's not  
9 common to find that level -- that high of standard for the  
10 government to take action in that case. We also found  
11 obviously there was a lack of clarity in the regulations  
12 with regard to the definition of temporary emergency.

13 So that was in September of 2005 where the Board  
14 had that discussion. And in October, the Deputy Director  
15 of Permitting and Enforcement, Howard Levenson, issued a  
16 letter to LEAs offering guidance on the implementation of  
17 the regulation. And in November sent a memo to Board  
18 members indicating staff's intent based on the September  
19 2005 discussion our intent to hold an informal workshop on  
20 the regulations and then return to this Committee with  
21 those findings.

22 So it was staff's intent then to focus just on  
23 those two areas: The definition of temporary emergency  
24 and the powers and duties of the Executive Director. So  
25 we drafted some language that we took to a workshop in

1 March, and the text is available as Attachment 2 in your  
2 agenda item.

3           And with regard to the definition of temporary  
4 emergency, you see on Attachment 2 starting on line 10 of  
5 page 1, the definition is structured -- is or is not kind  
6 of structure or format to the definition. It says what a  
7 temporary emergency is and says what a temporary emergency  
8 is not. We are continuing with that type of format, and  
9 we want to add that, "temporary emergency is a  
10 circumstance which results in the situation necessary in  
11 order to protect public health and safety and the  
12 environment, and that's the key term there, "as determined  
13 by the EA to waive specified terms." So the EA has to  
14 determine that it is necessary to protect public health  
15 and safety and the environment prior to issuing a waiver.

16           We also want to emphasize that a temporary  
17 emergency is not or cannot be used in a situation when  
18 there's a failure on the part of the operator or the LEA  
19 or local government to plan for that emergency.

20           Section 17211 beginning on line 23 is the process  
21 that an LEA must go through when issuing. So we're making  
22 a few changes there as well. We want to re-emphasize they  
23 have to make this determination that a temporary emergency  
24 exists, and it is necessary for the protection of public  
25 health and safety and the environment. All these changes

1 that I'm discussing and explaining to you now are the  
2 underlying text in your Attachment 2.

3 On the second page, in page 2 beginning on line  
4 9, we want to emphasize that those findings that we would  
5 now be requiring or adding to the requirements that an LEA  
6 must make, they be submitted to the Board in writing just  
7 to further document their determinations.

8 And then finally Section 17211.9 is the Board  
9 review of Stipulated Agreements. This is where the  
10 Executive Director gets his authority his or her authority  
11 to review the Stipulated Agreements beginning on line 27  
12 on page 2. We want to lower that standard where that  
13 triggers the Executive Director's action. And we're  
14 changing that to "finding a cause of harm" to "is the  
15 agreement issued consistent with the procedures that are  
16 established previously in Section 17211 and/or may  
17 adversely effect public health and safety." So there can  
18 be a determination by the Executive Director at that point  
19 with staff's help whether or not the order could adversely  
20 effect public health and safety, in which case his powers  
21 and duties would kick in.

22 Any questions about these changes? All those  
23 changes I'm explaining now is what was in text that went  
24 out prior to the public workshop in March.

25 Okay. So we had a public workshop in March, on

1 March 7th, 2006, and then we held a comment period open  
2 through April 17th for additional comment. And those  
3 comments are summarized in Attachment 1. We also have  
4 them available to put up on the screen for those in the  
5 room that don't have the attachments.

6 --o0o--

7 MR. HOLMES: We had a number of commentators talk  
8 about the potential scope of the rule making and asking  
9 whether or not these regulations could also be used to  
10 waive State Minimum Standards.

11 Staff's response is no. it has always been the  
12 intent and the use of these regulations even when going  
13 back to the permit and enforcement policy that it was only  
14 to waive permit terms and conditions, not State Minimum  
15 Standards. State Minimum Standards are minimum standards,  
16 and there could be in alternative ways to meet those  
17 standards, but not to waive them entirely. So it's not  
18 our intent to change the scope.

19 --o0o--

20 MR. HOLMES: Then we had a couple of comments  
21 related to the definition that there should be or could be  
22 a specified time period defining temporary. In other  
23 words, a maximum time whereby the terms and conditions  
24 could be waived. We looked at this one and determined  
25 that there are other places within the regulation

1 currently existing that limit the time period, and so we  
2 don't need any further clarification in the regulations.  
3 We're not recommending any change here as well.

4           The second bullet here probably we spent the most  
5 time on in the public workshop. There were many  
6 suggestions about specifying certain situations, and I  
7 think it was largely for reasons of stakeholders'  
8 understanding what we were suggesting in terms of the  
9 definitional changes. But there was request to list  
10 specific examples of what is a temporary emergency,  
11 drawing on some real life situations and some made-up  
12 situations.

13           Staff's response is that it is not our intention  
14 to produce a list in these regulations partly because it's  
15 not possible to anticipate every possible scenario. So  
16 we'd rather stick to a more performance-based definition.  
17 We can, however, add some clarity in the Statement of  
18 Reasons for the rulemaking, put some of these examples in  
19 that could help further clarify the situation down the  
20 road.

21                               --o0o--

22           MR. HOLMES: Also on the definition, currently  
23 existing language says that a temporary emergency is  
24 not -- cannot be used for collection and disposal strike.  
25 This wasn't part of the scope going in, but we did have a



1 comment that it is possible that there could still be a  
2 public health and safety concern during a collection or  
3 disposal strike. So we're asking your specific direction  
4 on this one as to whether to strike that from the not  
5 portion of the definition, thereby allowing the use of a  
6 temporary emergency in those situations.

7 COMMITTEE MEMBER PEACE: Bob, could you answer  
8 for me what was the reason why that particular condition  
9 was in there in the first place?

10 MR. HOLMES: In the first place?

11 COMMITTEE MEMBER PEACE: Why would it have been  
12 in there in the first place? What concerns were there?

13 STAFF COUNSEL BLEDSOE: Excuse me, Madam Chair.  
14 Michael Bledsoe from the Legal Office.

15 My recollection of why that provision was added  
16 it was added by a member of the Board really specifically  
17 to address his concern that if there were a labor strike,  
18 I believe it's fair to characterize his views as he did  
19 not want that to be obviated -- the effect of that strike  
20 be obviated by a declaration of a temporary emergency or  
21 Stipulated Agreement.

22 So if there was a labor strike that affected  
23 solid waste handling in a community, he felt and by  
24 extension the full Board felt that that was an appropriate  
25 impact for the community to suffer, as opposed to

1 authorizing the LEA and the operator to get around if you  
2 will those restrictions by issuing a Stipulated Agreement.

3 COMMITTEE MEMBER WIGGINS: I agree with that.

4 STAFF COUNSEL BLEDSOE: Pardon me?

5 COMMITTEE MEMBER WIGGINS: I agree with that.

6 DEPUTY DIRECTOR LEVENSON: I think what we'll do  
7 is go through all of the comments and our responses, and  
8 then we can come back to anything in particular you wish  
9 to discuss further.

10 MR. HOLMES: And staff has some suggestions on  
11 some of this as well. I'll share some of that with you  
12 also.

13 The last comment regarding the definition of  
14 temporary emergency was to insert the word "reasonably"  
15 before the term "foreseeable future event." Staff felt  
16 this was a reasonable suggestion and have put that into  
17 revised text for your consideration. This is consistent  
18 with the use of similar terms in other areas of regulation  
19 dealing with financial assurances. So we did think it was  
20 a reasonable request.

21 --o0o--

22 MR. HOLMES: The last area is the Board review of  
23 Stipulated Agreements, i.e., the Executive Director's  
24 ability to condition, limit, or suspend, or terminate the  
25 use of a Stipulated Agreement. The comment was there

1 should be a means for an LEA to appeal the Executive  
2 Director's action in that case. So we're asking for your  
3 specific direction on this one as well.

4 We do have an alternate suggestion here, and that  
5 is to require that the Executive Director consult with the  
6 LEA prior to taking action. This is something that he or  
7 she has done and probably would do anyway. But if we put  
8 that in the regulation to require that action.

9 The idea here is that both the Executive Director  
10 and the LEA have specific knowledge of the situation but  
11 have different perspectives. The Executive Director would  
12 have a statewide perspective. He may see something on a  
13 broader spectrum or regional or statewide impact that the  
14 LEA in looking primarily at their county obligations may  
15 not see. And visa versa, the LEA may have some specific  
16 information that the Executive Director wouldn't see. So  
17 by requiring them to meet and confer or at least discuss  
18 it prior to the Executive Director taking action, we think  
19 that could go along way.

20 We could set up an appeal process. But as you  
21 know, those could be quite complicated. And so it would  
22 take some doing on staff's part to set up that procedure.

23 And then finally, the last comment had to do with  
24 the delegation to the Deputy Director. The Deputy  
25 Director currently has the ability to delegate to his or

1 her designee. The commentor thought this might be a  
2 little too open or broad of a delegation. Staff don't  
3 necessarily agree with the commentor. They think the  
4 ability to delegate properly lies with Executive Director.  
5 And to date, the Executive Director has not exercised his  
6 or her authority to delegate. So he's made those  
7 determination himself.

8 Any questions about summary of comments?

9 --o0o--

10 MR. HOLMES: If I can just quickly point you to  
11 the text now. The blue text, the blue font you see on the  
12 last line, these are the changes to the text that staff  
13 now are recommending to you to put in. So there's that  
14 word "reasonably" that was suggested that we insert before  
15 the word "foreseeable," and the definition.

16 --o0o--

17 MR. HOLMES: No change to this section.

18 --o0o--

19 MR. HOLMES: No change based on the comment.

20 --o0o--

21 MR. HOLMES: No change to this section based on  
22 the comments.

23 --o0o--

24 MR. HOLMES: And then again the blue font. This  
25 is where we are suggesting that -- requiring the Executive

1 Director to consult with the enforcement agency prior to  
2 exercising his authority to take action on a stipulated  
3 agreement.

4 DEPUTY DIRECTOR LEVENSON: Just want to make sure  
5 everybody understands. The black font that's in  
6 underlying are the original staff proposed changes that we  
7 still are seeking your direction on. The blue font would  
8 be the changes that we are proposing to incorporate in  
9 response to stakeholder comments.

10 MR. HOLMES: So that concludes the presentation.  
11 And you see that the blue font is the text that we're  
12 recommending to you.

13 --o0o--

14 MR. HOLMES: So black up then, we did have some  
15 previous questions for you, previous direction with regard  
16 to the disposal and labor strike. So you can see here it  
17 appears in the definition. A temporary emergency does not  
18 include a collection or disposal strike. So upon your  
19 direction, we could remove that or leave it in.

20 COMMITTEE MEMBER WIGGINS: Remove what?

21 MR. HOLMES: Maybe it's easier if I show you on  
22 your Attachment 2, page 1, starting on line 13 is the  
23 definition of temporary emergency. The second half of  
24 this definition starting there in line 13 says, " a  
25 temporary emergency does not include a collection or

1 disposal strike." So if it's the Committee's direction as  
2 suggested by the commentor that a collection or disposal  
3 strike could be a situation where an LEA would want to  
4 weigh the terms and conditions of a permit, we would  
5 strike this from the does not include portion.

6 COMMITTEE MEMBER WIGGINS: I object to streaking  
7 it.

8 MR. HOLMES: You would like it to stay. Okay.

9 And then the other part that we're asking for  
10 your specific direction is on the appeal of the Executive  
11 Director's action. And so far what you have there is the  
12 staff's suggestion that we include at a minimum or require  
13 the Executive Director to consult with the LEA prior to  
14 taking that action. If it is your direction to include it  
15 in a full appeals process, we all have to do some work for  
16 you on that.

17 So that concludes my presentation.

18 CHAIRPERSON MULÉ: Okay. Thank you, Bob.

19 DEPUTY DIRECTOR LEVENSON: One final statement  
20 just to reiterate that we are just requesting your  
21 direction to proceed with starting the 45-day formal  
22 comment period, which will take a few months for us to put  
23 the package together and get it to the Office of  
24 Administrative Law. But today we are simply seeking your  
25 direction on those comments and then -- and your approval

1 to go ahead and begin the formal rulemaking.

2 CHAIRPERSON MULÉ: Okay. Great. Thank you,  
3 Howard. And thank you, Bob. It was an excellent  
4 presentation.

5 We do have three speakers, so we'll hear our  
6 speakers first and then take questions.

7 Our first speaker is Patti Henshaw.

8 MS. HENSHAW: Hi. I'm Patti Henshaw of Orange  
9 County LEA. And actually, I was involved with the  
10 stakeholders group when this was developed, so I kind of  
11 have an insight on it.

12 The first thing I was going to comment was  
13 including the collection and disposal labor strike. Why I  
14 may on a personal level be sensitive to labor strikes, I  
15 think as a public health official we're trying to just  
16 kind of be neutral and look at the issue. Is there a  
17 public health concern? Is the trash on the street causing  
18 problems? Is there a need to maybe extend landfill hours?  
19 We're trying to remain neutral.

20 Actually, Orange County during this time period  
21 actually had a labor strike. Luckily, it was only a  
22 couple of days. But we're trying to stay neutral and look  
23 at the public health issues. That's why the request was  
24 strike it. I know it was inserted for political reasons.  
25 But we wanted to remain neutral. That was one of the

1 requests.

2           The other one was when it says, "the Executive  
3 Director may delegate to any employee of the Board," we  
4 just thought that was a little broad. So I suggested at  
5 least it only go to the Deputy Director.

6           And then the other one was I put in like the idea  
7 of the appeal process or something if the Executive  
8 Director decides to suspend. And why I'm sure Orange  
9 County will never have an issue with the Executive  
10 Director, and I'm sure the Executive Director is very  
11 reasonable, but I just want to look at a bigger picture  
12 and look at the process like if the LEA had taken a stand  
13 there's a need for a temporary, you know, waiver of some  
14 sort, we'd like to have some ability to maybe beyond just  
15 discussing with the Executive Director to be able to  
16 appeal it or some kind of discussion to say we disagree.  
17 We really need this for whatever reason.

18           I've talked to Bob Holmes and Howard. I don't  
19 know exactly how it would be. The appeal process is  
20 complicated. I don't want to make it a complicated  
21 process. I just want to have the ability for a local  
22 enforcement agency to have some kind of power in saying  
23 no, we do need this.

24           So I don't have any suggestions. Just put it out  
25 on the table for some thoughts thought. So those were my



1 three comments. Other than that, I think the regulation  
2 it's very useful at times as a good LEA tool.

3 CHAIRPERSON MULÉ: Thank you, Patti. I think my  
4 concern on that appeal process is that the appeal process  
5 may take longer than the actual time waiver itself. So  
6 that's my concern on that issue.

7 MS. HENSHAW: And hopefully it would be something  
8 that would be a really rare situation or it could be  
9 worked out between the Executive Director and the LEA.  
10 I'm looking at the bigger picture of the potential issues  
11 that could come up.

12 CHAIRPERSON MULÉ: Thank you, Patti. We  
13 appreciate your comments and we appreciate you being here  
14 today.

15 Our next speaker is William Prinz. Good morning.

16 MR. PRINZ: Good morning, Madam Chair and  
17 Committee members. My name is Bill Prinz. I'm with the  
18 City of San Diego LEA. And I support the comments that  
19 Patti made. But I had one additional comment I did want  
20 to raise, and that is with the addition of the word,  
21 "reasonably foreseeable future events." In some of the  
22 language in the agenda item it talked about adding  
23 foreseeable future events into permits or looking at these  
24 kind of issues during a five-year review and some of these  
25 types of things.

1           And I think if the Board would like us to put  
2 these types of unforeseeable or foreseeable events into a  
3 permit, we're going to need some kind of guidance as to  
4 what we would need to add or change in our permits. And  
5 you know, we would base it on history of something that's  
6 happened in the past, or would we try to actually come up  
7 with scenarios that haven't happened that could happen?  
8 So it just seems like that definition is going to need to  
9 be flushed out in some real ways. So I just wanted to add  
10 that comment. Thank you.

11           CHAIRPERSON MULÉ: Thank you very much.

12           And our final speaker is Evan Edgar.

13           MR. EDGAR: Madam Chair, Board members, my name  
14 is Evan Edgar, engineer for the California Refuse Removal  
15 Council.

16           We oppose the regulations in the current format  
17 and would support Option 3 directing staff to have further  
18 analysis and future meetings to formally notice the  
19 proposed regulations. The reason we're opposed the  
20 regulations are two key issues.

21           First issue is the sudden closure of facilities,  
22 and number two about labor strikes. Let me give you more  
23 detail about both of those. On one of the PowerPoint  
24 presentations on the specifying the situation about sudden  
25 closure of a neighborhood facility, there have been cases

1 and in the workshops there was specific aspects of it. So  
2 I agree with staff that we should not put the case studies  
3 in the regulations. And maybe an appropriate place would  
4 be in the Statement of Reasons. However, the concept of  
5 sudden closures are still not in the regulations. The  
6 case study was say Sonoma County Landfill closed down.  
7 What happens to the trash when the Water Board comes  
8 along? Same thing happened with Florin-Perkins in  
9 Sacramento. They were sudden, unanticipated. It  
10 happened. And there were temporary emergencies. In each  
11 case there was a scramble in order to accommodate those  
12 tons. In the Sacramento marketplace, other facilities had  
13 to take additional tons. In Sonoma other things happened.  
14 I believe that as part of the temporary emergency  
15 that should be explicitly stated that the definitions  
16 should include sudden closure of facilities that have been  
17 shut down by other agencies, and in this case the Water  
18 Board. I think it's a valid aspect. And we scrambled in  
19 Sacramento, and it could happen in a future and other  
20 situations. So during the workshop we talk about the case  
21 studies. They're good case studies. However, they could  
22 be in the Statement of Reasons, but we like to have it  
23 explicit in the draft text over there. That's one reason  
24 we oppose the regulations in the current format.

25 Second aspect has to do with the collection and

1 disposal of labor strike. We would concur with some of  
2 the comments about how labor strikes are non-partisan  
3 public health and safety when we have garbage on the  
4 streets has situations beyond Union's. And that sometimes  
5 after collection stoppages, we have disposal peaks beyond  
6 the control of everybody.

7           And another case study has happened in the past  
8 that we do live in a global marketplace. A lot of single  
9 stream paper and metals go overseas. We had a case study  
10 four years ago. We had a port strike, and all the bail  
11 papered had backed up in the ports and backed up on our  
12 MRFs and transfer stations. We had to have extra storage.  
13 And at the time, we were able to get explicit emergency  
14 waivers to handle the bailed paper at our facilities that  
15 based on the port strike. Because of the fact we are so  
16 globalized and because we have so many recyclables  
17 overseas and because of ports and goods movements is such  
18 a critical aspect, I believe we need to have explicitly  
19 allow collection, disposal, and port labor strikes  
20 mentioned in the emergency waivers to allow goods movement  
21 in a global marketplace. For those reasons, we oppose the  
22 regulations and support Option 3 to send this back to work  
23 out the language to include those issues back into the  
24 draft regulations. Thank you.

25           CHAIRPERSON MULÉ: Thank you, Mr. Edgar.

1           Do we have any questions for staff or for any of  
2 the speakers from our Committee members or Board Chair?  
3 No.

4           Board Member Peace.

5           COMMITTEE MEMBER PEACE: I'm still running over  
6 that reasonably word and foreseeable future events. Who  
7 decides if it's reasonable or not?

8           STAFF COUNSEL BLEDSOE: Madam Chair, Michael  
9 Bledsoe, Legal Office. At the end of the day, the word  
10 reasonable is going to be defined by the courts. And what  
11 they're going to look at is what would normal reasonable  
12 public servants do in this kind of situation.

13           So I think by adding that word, the Board would  
14 be emphasizing that it's trying to have, if you will, a  
15 business-like approach to this. What would a normal  
16 person foresee as opposed to what would, you know, an  
17 unreasonable person be able to foresee. So it's just an  
18 attempt to kind of keep these regs within sort of the real  
19 world experience of local enforcement agencies and  
20 operators and, of course, the Board as well.

21           COMMITTEE MEMBER PEACE: From a legal point of  
22 view, you don't see anything bad about leaving the word  
23 reasonable in there.

24           STAFF COUNSEL BLEDSOE: No, I don't find that  
25 objectionable, because I think everything the Board does

1 is reasonable. And I hope everything the LEAs do is  
2 reasonable.

3 CHAIRPERSON MULÉ: Howard, would you like to  
4 expand on that answer?

5 DEPUTY DIRECTOR LEVENSON: I would just lo just  
6 add on a couple of points.

7 One is just in general, although I understand  
8 Mr. Edgar's concerns, I do think if we receive your  
9 direction to proceed, we can certainly continue to work  
10 with stakeholders on any specific language in this  
11 rulemaking, certainly if he made the same comments in the  
12 formal rulemaking. We need to sit down and discuss that  
13 further with him and report it back to you.

14 With respect to his first point about sudden  
15 closure facilities, I do want to point out in the case of  
16 Florin-Perkins we have quite a bit as to difference of  
17 opinion at to whether that was a sudden closure or not.  
18 From a staff perspective, this was a facility that was  
19 under an enforcement order for numerous years. The  
20 enforcement order had been appealed, but it was very clear  
21 to us that there was a high chance at this point the  
22 facility would be closed.

23 So in our viewpoint, one of the reasons that we  
24 recommended objecting to that Stipulated Agreement back in  
25 last year was that it did seem like it was a reasonably

1 foreseeable event that that was going to close and that  
2 the local planning entities had not taken or had  
3 sufficient foresight to try to deal with that problem. So  
4 I do want to put that staff perspective into the mix here.

5 CHAIRPERSON MULÉ: Thank you, Howard.

6 Board Member Wiggins.

7 COMMITTEE MEMBER WIGGINS: Mr. Edgar brought up  
8 his first issue was about unforeseeable, maybe shutting  
9 down landfills by another agency, like Water Board. Water  
10 Boards want to shut down all landfills. And that  
11 certainly happened in Sonoma County. And you know, I  
12 think that is more than an act of God. That is  
13 unconscionable. So I think that should have qualified.

14 DEPUTY DIRECTOR LEVENSON: You would suggest that  
15 a Water Board closure of a landfill should qualify as a  
16 temporary emergency?

17 COMMITTEE MEMBER WIGGINS: Yes.

18 COMMITTEE MEMBER PEACE: When the Water Board --  
19 are they that sudden? When a Water Board decides to close  
20 a landfill, is that sudden, or is there like months  
21 leading up to it?

22 MR. HOLMES: I would say that would be -- the  
23 latter would be more typical process, that it could take  
24 months.

25 COMMITTEE MEMBER WIGGINS: Why don't we have

1 Mr. Edgar continue discussing this?

2 MR. EDGAR: Evan Edgar, California Refuse Removal  
3 Council engineer.

4 With regards to time frame perspectives, sudden  
5 in permitting terms takes us about three years to revise a  
6 solid waste permit to get more tons in traffic to one of  
7 our transfer stations or landfill. If the Water Board is  
8 immanently closing down a landfill in two to three or five  
9 months away, it still in terms of it's an emergency  
10 situation because it takes us so much longer to get our  
11 tons and traffic to accommodate the Water Board closed  
12 landfill that could be three to six months away.

13 COMMITTEE MEMBER WIGGINS: Thank you.

14 CHAIRPERSON MULÉ: Thank you, Mr. Edgar.

15 BOARD MEMBER BROWN: Rosalie, Madam Chair, I  
16 think though it should say a sudden closure not specified  
17 a Water Board closure, because it could be another agency.  
18 You know, we're looking at South Coast's new air  
19 standards.

20 CHAIRPERSON MULÉ: It could be a Regional Air  
21 Quality Management District. It could be a number of  
22 agencies, not just the Water Board.

23 BOARD MEMBER BROWN: I agree. I would like to  
24 see we add that language as well.

25 STAFF COUNSEL BLEDSOE: Madam Chair, Michael



1 Bledsoe from Legal if I may interject.

2           What these regs are trying to set out is a  
3 process really for a determination. If there is a  
4 temporary unforeseeable circumstance which might very well  
5 be some totally unexpected closure of a facility by a  
6 Water Board or by the local air district, I think that  
7 would qualify as an unforeseeable circumstance. But if  
8 the Air Board has been working on a rule, for example, for  
9 the last two years on whether certain conditions have to  
10 be met at compost facilities, that is not unforeseeable  
11 that they may adopt that rule at the end of the process.

12           So if a Water Board inspector shows up at a  
13 landfill and says, "For God's sakes, this is horrible.  
14 You have to shut down today. Here's your cease and desist  
15 order," that certainly would be unexpected. But not if  
16 everyone knows the facility has been out of compliance and  
17 enforcement agencies have been working with it. So I just  
18 think that the existing language adequately covers the  
19 circumstance that should be considered.

20           CHAIRPERSON MULÉ: Thank you, Michael.

21           Are there any other questions from Board members,  
22 Committee members?

23           COMMITTEE MEMBER PEACE: I know that Patti and  
24 Bill bought up an appeal process, and I realize staff is  
25 saying that can be difficult or that could take a long

1 time. But I guess in my mind I always feel like any  
2 decision by the Executive Director should be appealable to  
3 the Board. There should be that provision in there. And  
4 it would have also -- they would have to demonstrate the  
5 Executive Director's decision to condition or limit or  
6 suspend or terminate was not consistent with the Board's  
7 policy.

8 STAFF COUNSEL BLEDSOE: Madam Chair, Michael  
9 Bledsoe, legal.

10 Certainly, any decision the Executive Director  
11 makes in his business as Executive Director is ultimately  
12 renewable for the Board since he works for you at your  
13 pleasure.

14 In this case, I think Ms. Mulé has really hit on  
15 the key problem. Although we certainly could do it. But  
16 if we set up an appeal process, we would have to have some  
17 reasonable time frames for people to get notice, prepare  
18 their arguments, and show up at the Board meeting. Might  
19 very well necessitate if we wanted to do this as fast as  
20 possible, special Board meetings or some sort of special  
21 process, I think we're haven't addressed but just so that  
22 you all know. If the Executive Director made a decision  
23 that seemed unreasonable, certainly the operator or the  
24 LEA would have the ability to go the court and quickly get  
25 a temporary restraining order if his action is really

1 outrageous and there were would be significant harm to the  
2 operator or to the public.

3           So, you know, there already exists a process for  
4 achieving quick justice if you will. So again, we could  
5 set up some sort of appeal process, but staff doesn't  
6 think that's necessary in light of the other option.

7           CHAIRPERSON MULÉ: Board Chair Brown.

8           BOARD MEMBER BROWN: Well, my first inclination  
9 was to set up a process. But after listening to counsel,  
10 I think that if an LEA did have an problem with the  
11 Executive Director, we would surely get a letter to all  
12 the Board members. And that would be their course of  
13 appeal because then we could review the Executive  
14 Director's actions without actually having a stipulated  
15 appeal process with time frames. So it's inherent in the  
16 way we do business.

17           CHAIRPERSON MULÉ: And the process already does  
18 require the Executive Director to consult with the EA;  
19 correct?

20           STAFF COUNSEL BLEDSOE: That specific language  
21 was proposed by staff today to be added, yes.

22           CHAIRPERSON MULÉ: So if we add that, we've got  
23 that safety net in there, and then we have the other  
24 process whereby if staff -- if the EA and the ED don't  
25 agree, then it can be heard by the Board. I mean they can

1 send a letter to the Board, and the Board can take action  
2 on it; correct?

3 DEPUTY DIRECTOR LEVENSON: And if this kind of  
4 approach stays in the final regs when they are adopted by  
5 the Board, we can put something to that effect in the  
6 final statement of reasons explaining the availability of  
7 both the court pathway or some kind of letter to the Board  
8 seeking some re-appraisal of that decision.

9 CHAIRPERSON MULÉ: Thank you.

10 I just have a couple comments. Are there any  
11 other questions?

12 I do support removing the collection or disposal  
13 strike from the list of situations. Having been involved  
14 in a number of these, they do, they can, and they often do  
15 pose a threat to public health and safety.

16 I also support inserting the word "reasonably"  
17 before the term "foreseeable future events." And again as  
18 we just discussed, having some language included that the  
19 ED would consult with the EA prior to taking an action on  
20 a temporary waiver.

21 So with that, can I entertain a motion?

22 COMMITTEE MEMBER WIGGINS: I object to taking the  
23 labor. The state should not be interfering with strikes.

24 CHAIRPERSON MULÉ: Elliot.

25 STAFF COUNSEL BLOCK: I was just going to go

1 ahead and remind you that actually under the Board's  
2 procedures this is a direction item. And it's actually  
3 within your discretion as the Chair of the Committee to  
4 provide that direction and after listening to your fellow  
5 Committee members comments on that. But you do not have  
6 to have a vote or there's no specific motion necessary.

7 CHAIRPERSON MULÉ: Thank you for that  
8 clarification, Elliot.

9 I think if the Committee concurs, I would like to  
10 move forward with Option 2, which would direct staff to  
11 make the revisions as you proposed and as suggested and  
12 put this out for formal notice.

13 COMMITTEE MEMBER PEACE: I share Board Member  
14 Wiggins' concerns over taking out the part about the labor  
15 strike.

16 COMMITTEE MEMBER WIGGINS: Is that in it?

17 COMMITTEE MEMBER PEACE: But even they do -- if  
18 we take it out and it's a problem, the LEA's can still --  
19 couldn't they still say this is a problem and put in a  
20 stipulated agreement -- I mean a stipulated waiver?

21 DEPUTY DIRECTOR LEVENSON: Right now in the  
22 language remains the same, then LEA would not be issue a  
23 stipulated agreement --

24 COMMITTEE MEMBER PEACE: If they took it out --

25 DEPUTY DIRECTOR LEVENSON: If they took it out,

1 they would have to evaluate this in terms of public health  
2 and safety on more of a performance based approach.

3 As I understand the Chair's direction -- I just  
4 want to make sure -- at this point to direction would be  
5 to retain that language, or were you suggesting -- are you  
6 directing to take it out?

7 CHAIRPERSON MULÉ: I was directing to take it  
8 out.

9 COMMITTEE MEMBER WIGGINS: I object. Does this  
10 go to a vote?

11 CHAIRPERSON MULÉ: No. What we'll do then is  
12 just keep it in for now. We'll put it out for 45-day  
13 comment. We'll see what revisions you come back and then  
14 we'll make our decision.

15 DEPUTY DIRECTOR LEVENSON: That's what I wanted  
16 to clarify was whether it was in or out.

17 What we can do in any accompanying letters or  
18 announcements is solicit further opinions on that  
19 particular issue so that we can bring that back to the  
20 Committee after the 45-day comment period.

21 CHAIRPERSON MULÉ: Okay. Thank you. All right.  
22 Is that it?

23 COMMITTEE MEMBER PEACE: I guess I'll say that I  
24 can support taking out the collection of the disposal. I  
25 can support that.

1 CHAIRPERSON MULÉ: We're not taking it out.

2 COMMITTEE MEMBER WIGGINS: She supports taking it  
3 out?

4 COMMITTEE MEMBER PEACE: And I support leaving  
5 the word "reasonably" in. And you're going to make it  
6 clear about the different avenues that an LEA can take if  
7 they have a difference of opinion with the Executive  
8 Director.

9 DEPUTY DIRECTOR LEVENSON: That would not be  
10 actual language in the rulemaking, but rather would be  
11 accompanying language. We could have it in the initial  
12 statement of reasons, which is the accompanying package  
13 that goes with the proposed rulemaking to AOL for  
14 approval. That would be in the initial statement of  
15 reasons and would be by extension included in the final  
16 statement of reasons when the package is ultimately  
17 adopted.

18 CHAIRPERSON MULÉ: Okay.

19 COMMITTEE MEMBER PEACE: Thank you for all the  
20 work you've done. I know these proposed  
21 regulation/modifications certainly address a lot of the  
22 concerns over the years related to the use of the  
23 temporary waivers.

24 CHAIRPERSON MULÉ: Okay. Thank you, staff. Is  
25 there any other public comment? With that, this meeting

1 is adjourned. Thank you, all.

2 (Thereupon the California Integrated Waste  
3 Management Board, Board of Administration  
4 Permitting and Enforcement Committee  
5 adjourned at 11:59 p.m.)

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1 CERTIFICATE OF REPORTER

2 I, TIFFANY C. KRAFT, a Certified Shorthand  
3 Reporter of the State of California, and Registered  
4 Professional Reporter, do hereby certify:

5 That I am a disinterested person herein; that the  
6 foregoing hearing was reported in shorthand by me,  
7 Tiffany C. Kraft, a Certified Shorthand Reporter of the  
8 State of California, and thereafter transcribed into  
9 typewriting.

10 I further certify that I am not of counsel or  
11 attorney for any of the parties to said hearing nor in any  
12 way interested in the outcome of said hearing.

13 IN WITNESS WHEREOF, I have hereunto set my hand  
14 this 20th day of June, 2006.

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